

1 Plaintiffs Natacha Perez, *et al.*, and defendants and specially-appearing defendants Bayer
2 Corporation, Bayer Essure Inc., Bayer HealthCare LLC, and Bayer HealthCare Pharmaceuticals Inc.
3 (collectively, “Bayer”), hereby stipulate and agree as follows:

4 1. Plaintiffs filed their complaint on December 23, 2016, in the Superior Court for the
5 State of California, County of Alameda, case number RG16843637. In their complaint, Plaintiffs
6 assert claims involving the Essure® Permanent Birth Control System (the “Essure® Device”), which
7 is a Class III medical device approved by the United States Food and Drug Administration (“FDA”)
8 pursuant to the Pre-Market Approval Application (“PMA”) process.

9 2. On April 5, 2017, Bayer removed the matter from the Alameda County Superior
10 Court to the United States District Court for the Northern District of California. [Dkt. No. 1].

11 3. Bayer filed its Motion to Dismiss on April 10, 2017, on the grounds of federal
12 preemption, among other grounds. [Dkt. No. 15]. The Motion to Dismiss is currently scheduled for
13 hearing on June 8, 2017.

14 4. On April 20, 2017, Plaintiffs filed a motion to remand this action to the Superior
15 Court for the State of California, County of Alameda, pursuant to 28 U.S.C. §1447, on the grounds
16 that this Court lacks jurisdiction over this action.

17 5. On April 7, 2017, this matter was deemed related to another matter pending before
18 this Court involving the Essure® Device, captioned as *Elizabeth Ann Sangimino, et al. v. Bayer*
19 *Corp., et al.*, Case No. 3:17-cv-01488-WHA. [Dkt. No. 12].

20 6. In the *Sangimino* matter, the Court has already set a briefing schedule on Bayer’s
21 Motion to Dismiss, which is similar to the Motion to Dismiss filed in this matter, and on Plaintiffs’
22 Motion to Remand, which is similar to the Motion to Remand filed in this matter. The briefing
23 schedule on those motions in *Sangimino* is as follows:

- 24 • **April 28, 2017:** Bayer’s deadline to respond to Plaintiffs’ Motion to Remand;
25 Plaintiffs’ deadline to respond to Bayer’s Motion to Dismiss;
- 26 • **May 12, 2017:** Bayer’s deadline to file a reply in support of the Motion to Dismiss;
27 Plaintiffs’ deadline to file a reply in support of the Motion to Remand;
- 28 • **June 8, 2017:** Hearing on Motion to Dismiss and Motion to Remand.

1 7. In light of the close overlap between the issues being briefed in *Sangimino* and those
2 that will be presented to the Court in this matter, the parties have met and conferred and agree that it
3 would be in the interest of judicial economy to stay the briefing in this matter pending the Court's
4 rulings on the Motion to Dismiss and Motion to Remand in *Sangimino*. The Parties thus respectfully
5 request and ask the Court to enter an order in this matter staying all briefing on Bayer's Motion to
6 Dismiss and Plaintiffs' Motion to Remand until such time.

7
8 IT IS SO STIPULATED.

9 Dated: April 21, 2017

10 SIDLEY AUSTIN LLP

11 By: /s/ Alycia A. Degen
12 Alycia A. Degen
13 Bradley J. Dugan

14 *Attorneys for Defendants and Specially
Appearing Defendants*
15 Bayer Corporation, Bayer HealthCare LLC,
Bayer Essure Inc., and Bayer HealthCare
Pharmaceuticals Inc.

16 Dated: April 21, 2017

17 MCCUNE WRIGHT AREVALO, LLP

18 By: /s/ Kristy M. Arevalo
19 Kristy M. Arevalo

20 *Attorneys for Plaintiffs*
21 Natacha Perez, *et al.*

22 **Filer's Attestation:** Pursuant to Local Rule 5-1(i)(3), regarding signatures, Alycia A. Degen hereby
23 attests that concurrence in the filing of this document has been obtained from counsel for Plaintiffs.

24 Dated: April 21, 2017

25 By: /s/ Alycia A. Degen
26 Alycia A. Degen

[PROPOSED] ORDER

PURSUANT TO THE PARTIES' STIPULATION, and for good cause shown, IT IS ORDERED THAT the briefing on Bayer's Motion to Dismiss and Plaintiffs' Motion to Remand are STAYED pending the Court's rulings on the Motion to Dismiss and Motion to Remand in the related case *Sangimino v. Bayer Corp., et al.*, Case No. 3:17-cv-01488-WHA.

Dated: April 25, 2017


Honorable William H. Alsup

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Order re: